

**Ken Therrien
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Attorney for:
Gerardo Maderos Loreto

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
(Honorable Salvador Mendoza Jr.)**

TO: Clerk of the Court;

TO: Thomas Hanlon, Assistant United States Attorney.

COMES NOW, Gerardo Maderos Loreto, and moves this Court for an order requiring the government to comply with the following discovery requests:

1. **Statements**. All written and oral statements made by Gerardo Maderos Loreto. This request includes, but is not limited to, any rough notes.

1 records, reports, transcripts or other documents and tapes in which statements
2 of Gerardo Maderos Loreto are contained. The substance of statement the
3 government intends to introduce are discoverable under Fed. R.Crim. P.
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5 16(a)(1)(A) and Brady v. Maryland.

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7 2. **Documents, statements, reports, tangible evidence.**

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9 Production of all documents, statements, agents' reports, and tangible
10 evidence favorable to the defendant on the issue of guilt or which affects the
11 credibility of the government's case. This evidence must be produced
12 pursuant to Brady v. Maryland and United States v. Agurs, 96 S.Ct. 2392
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14 (1976).

15 3. **Prior record/other act evidence.** All evidence, documents,
16 records of judgments and convictions, photographs and tangible evidence, and
17 information pertaining to any prior arrests and convictions or prior bad acts.
18 Evidence of prior record is available under Fed. R. Crim. P. 16(a)(1)(B).
19 Evidence of prior similar acts is discoverable under Fed R. Crim. P.
20 16(a)(1)(C) and Fed. R. Evid. 404(b) and 609. This request also includes
21 RIPHI ALI' rap sheet and/or NCIC computer check on Gerardo Maderos
22 Loreto.

1 4. **Seized evidence.** All evidence seized as a result of any search,
2 either warrantless or with a warrant, in this case. This is available under Fed.
3 R. Crum, P. 16(a)(1)(C).
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6 5. **Agent's reports, notes, memos.** All arrest reports,
7 investigator's notes, memos from arresting officers, sworn statements, and
8 prosecution reports pertaining to Gerardo Maderos Loreto. These reports are
9 available under Fed. R. Crim. P. 16(a)(1)(B) and (C); and Fed. R. Crim. P.
10 26.2 and 12(i). This request includes affidavits in support of search warrants
11 and the lists of items seized in the execution of any search warrant. In
12 addition, any witness interview notes that could be considered to be
13 statements attributable to the witness are requested. See Goldberg v. United
14 States, 96 S.Ct. 1338 (1976).
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17 6. **Other documents/tangible objects.** All other documents and
18 tangible objects, including photographs, books, papers, documents, or copies
19 or portions thereof which are material to Gerardo Maderos Loreto's defense
20 or intended for use in the government's case-in-chief or were obtained from
21 or belong to Gerardo Maderos Loreto. Specifically requested also are all
22 documents, items and other information seized pursuant to any search. This is
23 available under Brady and Fed. R. Crim. P. 16(a)(1)(C).
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1 7. **Bias of government witnesses.** Any evidence that any
2 prospective government witness is biased or prejudiced against Gerardo
3 Maderos Loreto or has a motive to falsify or distort his/her testimony. See
4 Pennsylvania v. Ritchie, 480 U.S. 39 (1987); United States v. Strifler, 851
5 F.2d 1197 (9th Cir. 1988).
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8 8. **Prior record/other acts of government witnesses.** Any
9 evidence that any prospective government witness has engaged in any
10 criminal act whether or not resulting in a conviction. See F.R.E. Rule 608(b)
11 and Brady.
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14 9. **Investigation of witnesses.** Any evidence that any prospective
15 witness is under investigation by federal, state or local authorities for any
16 criminal or official misconduct. United States v. Chitty, 760 F.2d 425 (2nd
17 Cir.), 474 U.S. 945 (1985).
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20 10. **Evidence regarding ability to testify.** Any evidence, including
21 any medical or psychiatric reports or evaluations, tending to show that any
22 prospective witness's ability to perceive, remember, communicate, or tell the
23 truth is impaired; and any evidence that a witness has ever used narcotics or
24 other controlled substance, or has ever been an alcoholic. United States v.
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1 Strifler, 851 F.2d 1197 (9th Cir. 1988); Chavis v. North Carolina, 637 F.2d
2 213, 224 (4th Cir. 1980); United States v. Butler, 567 F.2d 885 (9th Cir. 1978).

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4 11. **Personnel files.** It is requested that the government review
5 each agent's personnel file for review for information requested in paragraphs
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7 7 – 10 above and determine whether there is any impeaching information
8 contained in the files. See United States v. Henthorn, 931 F.2d 29 (9th Cir.
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10 1991).

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12 12. **Government witnesses.** The name and last known address of
13 each prospective government witness. See United States v. Neap, 834 F.2d
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15 1311 (9th Cir. 1987); United States v. Tucker, 716 F.2d 583 (9th Cir. 1983)
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17 (failure to interview government witnesses by counsel is ineffective); United
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19 States v. Cook, 608 F.2d 1175, 1181 (9th Cir. 1979) (defense has equal right to
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21 talk to witnesses).

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23 13. **Other witnesses.** The name and last known address of every
24 witness to the alleged offenses (or any of the overt acts committed in
25 furtherance thereof) who will not be called as a government witness. United
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27 States v. Cadet, 727 F.2d 1469 (9th Cir. 1984).

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29 14. **Favorable testimony.** The name of any witness who made an
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31 arguably favorable statements concerning Gerard Maderos Loreto or who
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1 could not identify him or who was unsure of his identity or participation in the
2 crime charged. Jackson v. Wainwright, 390 F.2d 288 (5th Cir. 1968); Chavis
3 v. North Carolina, 637 F.2d 213, 223 (4th Cir. 1980); James v. Jag, 575 F.2d
4 1164, 1168 (6th Cir. 1978); Hudson v. Blackburn, 601 F.2d 785 (5th Cir.
5 1975).
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9 15. **Specific inquiries of agents.** It is requested that the
10 government make specific inquiry of each government agent connected to the
11 case for the information requested in paragraphs 12-14. United States v.
12 Jackson, 780 F.2d 1305 (6th Cir. 1986); United States v. Butler, 567 F.2d 885,
13 889 (9th Cir. 1978).
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17 16. **Rule 26.2 Material/Timing of Production.** It is requested that
18 the government provide all material available pursuant to Fed. R. Crim. P.
19 26.2, sufficiently in advance of trial or motion hearings so as to avoid
20 unnecessary delay prior to cross examination.
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23 17. **Experts/resumes.** The curriculum vitae of any and all experts
24 the government intends to call at trial, including any and all books, treatises or
25 other papers written by the expert which is relevant to the testimony.
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28 18. **Expert's reports and summaries.** Production of any and all
29 reports of any examinations or tests, is requested pursuant to Rule
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1 16(a)(1)(D). In addition, it is requested that the government disclose a written
2 summary of testimony the government intends to use under FRE 702, 703 or
3 705. As required by Rule 16(a)(1)(E), the summaries must describe the
4 witnesses' opinions, the bases and the reasons therefore and the witnesses'
5 qualifications. See Fed. R. Crim. P. 16(a)(1)(E) (added December 1, 1993).

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7 19. **Confidential Informant(s) and related information.** It is
8 requested that the government reveal the identity of any and all confidential
9 informants who were percipient witnesses to the charges in this case and
10 information regarding any promises made to the CI and the information
11 provided by the CI.

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13 20. **Promises made or “deals” with government witnesses.** Under
14 Giglio v. United States, 405 U.S. 150 (1972), the government must provide all
15 promises of consideration given to witnesses. See also United States v.
16 Shaffer, 789 F.2d 682 (9th Cir. 1986).

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18 21. **Minutes of Grand Jury Proceedings.** Production of the
19 minutes of the grand jury proceedings is requested in order to determine
20 whether there has been compliance with Rule 6 with regard to attendance and
21 the number of grand jurors voting on this indictment. See Rule 6(b)-(d).

22. **Grand Jury transcripts.** All grand jury transcripts are requested in accordance with Rule 6.

23. **Statement by government of refusal to provide.** If the government has any of the above-requested items or the times required by the rules, law, or court order, but refuses to provide them to the defense, Gerardo Maderos Loreto requests a statement as to the existence of the items and the refusal to provide them.

DATED this 14th day of November, 2016.

s/ Ken Therrien

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury of the laws of the State of Washington
that on November 14, 2016, I electronically filed the foregoing with the Clerk of
the Court using the CM/ECF System which will send notification of such filing
to the following:

Thomas Hanlon, Assistant United States Attorney.

s/ Ken Therrien
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